

Before the
Federal Communications Commission
Washington, D.C. 20554

Nov 12

MM Docket No. 93-139

- In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Anchorage and Seward, Alaska)¹

RM-8211
RM-8307

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 29, 1993; Released: November 12, 1993

By the Assistant Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 8 FCC Rcd 3880 (1993), issued in response to a petition for rule making filed by American Radio Brokers, Inc. ("petitioner"), licensee of Station KXDZ(FM),² Anchorage, Alaska, proposing the substitution of Channel 275C1 for Channel 275C2 at Anchorage,³ and modification of the license for Station KXDZ(FM) accordingly. Petitioner filed comments and a counterproposal.⁴ No other comments were received.⁵

2. In its counterproposal, petitioner proposed the substitution of Channel 276C1 for Channel 275C2 to afford it greater flexibility in the selection of a suitable transmitter site. Additionally, to accommodate its proposal, petitioner requested the substitution of a Class A Channel⁶ for vacant and unapplied for Channel 276A at Seward, Alaska.⁷

3. We believe the public interest would be served by substituting Channel 276C1 for Channel 275C2 at Anchorage. It will enable Station KXDZ(FM) to expand its coverage area. Additionally, we will substitute Channel 290A for Channel 276A at Seward, Alaska, to accommodate the petitioner's proposal.

4. In accordance with the provisions of Section 1.420(g) of the Commission's Rules, we are modifying herein the license of American Radio Brokers, Inc. for Station KXDZ(FM) to specify operation on Channel 276C1 at Anchorage.

Technical Statement

5. Channel 276C1 can be allotted to Anchorage at the petitioner's presently licensed site located 7 kilometers (4.4 miles) southeast of Anchorage at coordinates 61-09-58 and 149-49-34. Channel 290A can be allotted to Seward without the imposition of a site restriction at coordinates 60-06-15 and 149-26-32.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 27, 1993, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

City	Channel No.
Anchorage, Alaska	225C, 247C1, 251C1, 255C1, 263C3, ⁸ 267C, 271C3, 276C1, 281C1, 287C1, 293C, 298C 290A
Seward, Alaska	

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of American Radio Brokers, Inc. (BLH-871019KA) for Station KXDZ(FM), Anchorage, Alas-

¹ The community of Seward, Alaska, has been added to the caption.

² Assignment of the license for Station KXDZ(FM) from Korlyn Broadcasting, Inc. to American Radio Brokers, Inc. (File No. BALH-930216HW), was granted on May 4, 1993, and consummated on September 22, 1993.

³ Although Station KXDZ(FM) currently operates on Channel 276A, its license was modified to specify operation on Channel 275C2 at Anchorage in MM Docket No. 88-29. See 4 FCC Rcd 8504 (1989).

⁴ Public Notice of the counterproposal was given August 2, 1993, Report No. 1957 (RM-8307).

⁵ Informal comments were filed by Don Nordin ("Nordin"), General Manager of Station KPXR(FM), Anchorage. However, Nordin's comments were not served on the petitioner, in violation of Section 1.420 of the Commission's Rules. See also paragraph 4 of the Appendix to the Notice. Consequently, Nordin's comments constitute an *ex parte* presentation and will not be considered herein. See Section 1.1200 of the Commission's Rules.

⁶ Petitioner suggested the substitution of various Class A channels as a substitute for Channel 276A at Seward. Among those suggested, we have determined that Channel 290A is preferable

since it would not impinge on any existing service in the Seward area.

⁷ Although petitioner initially specified a transmitter site located 24.9 kilometers (15.5 miles) northwest of Anchorage at coordinates 61-26-10 and 149-59-57, it subsequently determined that a Class A channel substitution at Seward would enable it to accomplish its proposed upgrade modification for Station KXDZ(FM) at its presently licensed site.

⁸ Station KBFX-FM was previously licensed on Channel 263C2 at Anchorage. However, its license was subsequently downgraded to Class C3 status as its specified facilities are equivalent to those of a Class C3 channel. See Letter from Larry D. Eads, Chief, Audio Services Division to TCT Communications, Inc. (Station KBFX-FM), dated August 3, 1993. See also, Public Notice, Mimeo No. 3667, entitled "Reclassification of FM Facilities Re MM Docket 88-375." However, Section 73.202(b) of the Rules, the FM Table of Allotments has not been editorially amended to reflect the downgrading of Channel 263 at Anchorage. Therefore, we will make the change in the FM Table of Allotments in the context of this proceeding. Since the change is editorial in nature, a public notice and comment proceeding is unnecessary. See 5 U.S.C. 553(b)(A) and (B).

ka, IS MODIFIED to specify operation on Channel 276C1 in lieu of Channel 276A, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, American Radio Brokers, Inc., licensee of Station KXDZ(FM), is required to submit a rule making fee in addition to the fee required for the applications to effect its upgrade at Anchorage, Alaska.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Victoria M. McCauley
Assistant Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau